

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL HEGEWALD,

Petitioner,

v.

PATRICK GLEBE,

Respondent.

CASE NO. C14-5482 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 16), and Petitioner Michael Hegewald’s (“Hegewald”) objections to the R&R (Dkt. 17).

On October 30, 2014, Judge Creatura issued the R&R recommending that the Court deny Hegewald’s petition because it is time-barred and Hegewald is not entitled to equitable tolling. Dkt. 16. On November 17, 2014, Hegewald filed objections arguing that he is entitled to equitable tolling. Dkt. 17. On November 25, 2014, the Government responded to the objections. Dkt. 18.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the  
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Hegewald argues that he is entitled to equitable tolling because he has  
4 a mental impairment and because he was unable to secure legal assistance to file the  
5 petition in a timely manner. Dkt. 17 at 4. Hegewald offered these same assertions to  
6 Judge Creatura and they were rejected based on a lack of evidence to meet the high bar of  
7 equitable tolling. *See* Dkt. 16 at 4–5. The Court also rejects Hegewald’s justifications  
8 for failing to timely file because Hegewald has failed to meet the high burden of  
9 establishing that he is entitled to equitable tolling. Neither reason put forth by Hegewald  
10 shows extraordinary circumstances that prevented him from timely filing his petition.  
11 Therefore, the Court having considered the R&R, Petitioner’s objections, and the  
12 remaining record, does hereby find and order as follows:

- 13 (1) The R&R is **ADOPTED**;
- 14 (2) The Court **DENIES** Hegewald’s petition;
- 15 (3) The Court **DENIES** a Certificate of Appealability; and
- 16 (4) This action is **DISMISSED**.

17 Dated this 6th day of January, 2015.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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